

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 PRINCIPAL LIFE INSURANCE COMPANY,)	Case No. 10cv510-BTM (BLM)
12 Plaintiff,)	CASE MANAGEMENT CONFERENCE
13 v.)	ORDER REGULATING DISCOVERY
14 KASRA SADR, AS TRUSTEE FOR THE)	AND OTHER PRETRIAL
15 ALTON LARSEN FAMILY INSURANCE)	PROCEEDINGS
16 TRUST, GABRIEL GIORDANO, AND DOES)	(Fed. R. Civ. P. 16)
1-10,)	(Local Rule 16.1)
16 Defendants.)	(Fed. R. Civ. P. 26)
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18 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a telephonic Case
19 Management Conference was held on July 1, 2010. After consulting with the attorneys of record
20 for the parties and being advised of the status of the case, and good cause appearing,

21 **IT IS HEREBY ORDERED:**

22 1. Any motion to join other parties, to amend the pleadings, or to file additional
23 pleadings shall be filed on or before **October 1, 2010**.

24 2. Each party shall serve on all opposing parties a list of experts, whom that party
25 expects to call at trial, on or before **November 5, 2010**. Each party may supplement its
26 designation in response to the other party's designation no later than **November 24, 2010**.
27 Expert designations shall include the name, address, and telephone number of each expert and
28 a reasonable summary of the testimony the expert is expected to provide. The list shall also

1 include the normal rates the expert charges for deposition and trial testimony.

2 The parties must identify any person who may be used at trial to present evidence
3 pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence. This requirement is not
4 limited to retained experts.

5 **Please be advised that failure to comply with this section or any other discovery
6 order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37,
7 including a prohibition on the introduction of experts or other designated matters in
8 evidence.**

9 3. All expert disclosures required by Fed. R. Civ. P. 26(a)(2) shall be served on all
10 parties on or before December 22, 2010. Any contradictory or rebuttal information shall be
11 disclosed on or before January 14, 2011. In addition, Fed. R. Civ. P. 26(e)(2) imposes a duty
12 on the parties to supplement the expert disclosures made pursuant to Fed. R. Civ. P. 26(a)(2)(B)
13 by the time that pretrial disclosures are due under Fed. R. Civ. P. 26(a)(3) (discussed below).

14 The parties are advised to consult with Fed. R. Civ. P. 26(a)(2) regarding expert
15 disclosures. Such disclosures shall include an expert report, all supporting materials, a complete
16 statement of all opinions to be expressed and the basis and reasons therefor, the data or other
17 information considered by the expert in forming the opinions, any exhibits to be used as a
18 summary of or support for the opinions, the qualifications of the witness including a list of all
19 publications authored by the witness within the preceding ten years, the compensation to be paid
20 for the study and testimony, and a list of other cases in which the witness has testified as an
21 expert at trial or by deposition within the preceding four years.

22 This disclosure requirement applies to all persons retained or specially employed to
23 provide expert testimony, or whose duties as an employee of the party regularly involve the
24 giving of expert testimony.

25 **Please be advised that failure to comply with this section or any other discovery
26 order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37,
27 including a prohibition on the introduction of experts or other designated matters in
28 evidence.**

1 4. All discovery shall be completed by all parties on or before **March 4, 2011.**

2 "Completed" means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure,
3 and discovery subpoenas under Rule 45, must be initiated a sufficient period of time in advance
4 of the cut-off date, so that it may be completed by the cut-off date, taking into account the times
5 for service, notice, and response as set forth in the Federal Rules of Civil Procedure.

6 Counsel shall promptly and in good faith meet and confer with regard to all discovery
7 disputes in compliance with Federal Rule of Civil Procedure 37(a)(1) and Civil Local Rule 26.1(a).

8 **All discovery motions shall be filed within thirty (30) days after counsel have met and**
9 **conferred and reached an impasse with regard to any particular discovery issue, but**
10 **in no event shall discovery motions be filed more than sixty (60) days after the date**
11 **upon which the event giving rise to the discovery dispute occurred.** For oral discovery,
12 the event giving rise to the discovery dispute is the completion of the transcript of the affected
13 portion of the deposition. For written discovery, the event giving rise to the discovery dispute
14 is either the service of the response, or, if no response was served, the initial date the response
15 was due. **In addition, all discovery motions must be filed within thirty (30) days after**
16 **the close of discovery.**

17 5. All other pretrial motions must be filed on or before **April 1, 2011.** Motions will
18 not be heard or calendared unless counsel for the moving party has obtained a motion hearing
19 date from the law clerk of the judge who will hear the motion. **Be advised that the parties**
20 **must file their moving papers within three (3) days of receiving their motion hearing**
21 **date from the Court.** Failure to timely request a motion date may result in the motion not
22 being heard.

23 Questions regarding this case should be directed to the judge's law clerk. The Court
24 draws the parties' attention to Local Rule 7.1(e)(4) which requires that the parties allot additional
25 time for service of motion papers by mail. Papers not complying with this rule shall not be
26 accepted for filing.

27 Briefs or memoranda in support of or in opposition to any pending motion shall not exceed
28 twenty-five (25) pages in length without leave of the judge who will hear the motion. No reply

1 memorandum shall exceed ten (10) pages without leave of the judge who will hear the motion.

2 6. A Mandatory Settlement Conference shall be conducted on **December 6, 2010**
 3 at **9:30 a.m.** in the chambers of Magistrate Judge Barbara L. Major located at **940 Front**
 4 **Street, Suite 5140, San Diego, CA 92101.** All discussions at the Mandatory Settlement
 5 Conference will be informal, off the record, privileged, and confidential. Counsel for any non-
 6 English speaking party is responsible for arranging for the appearance of an interpreter at the
 7 conference.

8 a. **Personal Appearance of Parties Required:** All parties, adjusters for
 9 insured defendants, and other representatives of a party having full and complete authority to
 10 enter into a binding settlement, as well as the principal attorneys responsible for the litigation,
 11 must be present **in person** and legally and factually prepared to discuss settlement of the case.
 12 **Counsel appearing without their clients (whether or not counsel has been given settlement**
 13 **authority) will be cause for immediate imposition of sanctions and may also result in the**
 14 **immediate termination of the conference.**

15 Unless there are extraordinary circumstances, persons required to attend the conference
 16 pursuant to this Order shall not be excused from personal attendance. **Requests for excuse**
 17 **from attendance for extraordinary circumstances shall be made in writing at least**
 18 **three (3) court days prior to the conference.** Failure to appear **in person** at the Mandatory
 19 Settlement Conference will be grounds for sanctions.

20 b. **Full Settlement Authority Required:** In addition to counsel who will try
 21 the case, a party or party representative with **full settlement authority**¹ must be present for the
 22 conference. In the case of a corporate entity, an authorized representative of the corporation
 23 who is not retained outside counsel must be present and must have discretionary authority to

25 1 "Full settlement authority" means that the individuals at the settlement conference must be authorized to
 26 explore settlement options fully and to agree at that time to any settlement terms acceptable to the parties. Heileman
Brewing Co. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989). The person needs to have "unfettered discretion
 27 and authority" to change the settlement position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D.
 28 Ariz. 2003). The purpose of requiring a person with unlimited settlement authority to attend the conference
 contemplates that the person's view of the case may be altered during the face to face conference. Id. at 486. A
 limited or a sum certain of authority is not adequate. See Nick v. Morgan's Foods, Inc., 270 F.3d 590, 595-97 (8th
 Cir. 2001).

1 commit the company to pay an amount up to the amount of Plaintiff's prayer (excluding punitive
 2 damages prayers). The purpose of this requirement is to have representatives present who can
 3 settle the case during the course of the conference without consulting a superior. Counsel for
 4 a government entity may be excused from this requirement so long as the government attorney
 5 who attends the Mandatory Settlement Conference (1) has primary responsibility for handling
 6 the case, and (2) may negotiate settlement offers which the attorney is willing to recommend
 7 to the government official having ultimate settlement authority.

8 c. **Confidential Settlement Statements Required:** No later than
 9 **November 29, 2010,** the parties shall submit directly to Magistrate Judge Major's chambers
 10 confidential settlement statements no more than five (5) pages in length. **These confidential**
 11 **statements shall not be filed or served on opposing counsel.** Each party's confidential
 12 statement must include the following:

13 (i) A brief description of the case, the claims and/or counterclaims
 14 asserted, and the applicable defenses or position regarding the asserted claims;

15 (ii) A specific and current demand or offer for settlement addressing all
 16 relief or remedies sought. If a specific demand or offer for settlement cannot be made at the
 17 time the brief is submitted, then the reasons therefore must be stated along with a statement
 18 as to when the party will be in a position to state a demand or make an offer; and

19 (iii) A brief description of any previous settlement negotiations, mediation
 20 sessions, or mediation efforts.

21 General statements that a party will "negotiate in good faith" is not a specific demand or
 22 offer contemplated by this Order. It is assumed that all parties will negotiate in good faith.

23 d. **Requests to Continue a Mandatory Settlement Conference:** Any
 24 request to continue the Mandatory Settlement Conference or request for relief from any of the
 25 provisions or requirements of this Order must be sought by a **written ex parte application.**
 26 The application must (1) be supported by a declaration of counsel setting forth the reasons and
 27 justifications for the relief requested, (2) confirm compliance with Civil Local Rule 83.3(h), and
 28 (3) report the position of opposing counsel or any unrepresented parties subject to the Order.

1 **Absent extraordinary circumstances, requests for continuances will not be considered**
2 **unless submitted in writing no fewer than seven (7) days prior to the scheduled**
3 **conference.**

4 **If the case is settled in its entirety before the scheduled date of the conference,**
5 **counsel and any unrepresented parties must still appear in person, unless a written**
6 **joint notice confirming the complete settlement of the case is filed no fewer than**
7 **twenty-four (24) hours before the scheduled conference.**

8 7. The parties must comply with the pretrial disclosure requirements of Fed. R. Civ.
9 P. 26(a)(3) no later than July 5, 2011. The parties should consult Fed. R. Civ. P. 26(a)(3) for
10 the substance of the required disclosures.

11 **Please be advised that failure to comply with this section or any other discovery**
12 **order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37,**
13 **including a prohibition on the introduction of designated matters in evidence.**

14 8. No Memoranda of Contentions of Fact and Law are to be filed except in a bench
15 trial. In that case, counsel shall serve on each other and file with the Clerk of the Court their
16 Memoranda of Contentions of Fact and Law in compliance with Local Rule 16.1(f)(2) (and
17 16.1(f)(3), where applicable) on or before July 5, 2011.

18 9. Counsel shall meet and confer regarding the contents of the pretrial order on or
19 before July 12, 2011.

20 10. Counsel shall comply with the attached Order Setting Form of Pretrial Order in
21 preparing the pretrial order.

22 11. The proposed final pretrial conference order, including written objections, if any,
23 to any party's Fed. R. Civ. P. 26(a)(3) pretrial disclosures, shall be served on opposing counsel
24 and lodged directly with Judge Moskowitz's chambers on or before July 26, 2011. Such
25 objections shall comply with the requirements of Fed. R. Civ. P. 26(a)(3). **Please be advised**
26 **that the failure to file written objections to a party's pretrial disclosures may result**
27 **in the waiver of such objections, with the exception of those made pursuant to Rules**
28 **402 (relevance) and 403 (prejudice, confusion or waste of time) of the Federal Rules**

1 **of Evidence.**

2 12. The final pretrial conference is scheduled on the calendar of the Honorable Barry
3 Ted Moskowitz on August 2, 2011 at 4:00 p.m. The trial date will be assigned by Judge
4 Moskowitz at the pretrial conference.

5 13. The dates and times set forth herein will not be modified except for good cause
6 shown.

7 14. Plaintiff's(s') counsel shall serve a copy of this order on all parties that enter this
8 case hereafter.

9 DATED: July 1, 2010



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11 BARBARA L. MAJOR
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PRINCIPAL LIFE INSURANCE COMPANY,) Civil No. 10cv510-BTM (BLM)
Plaintiff,)
v.) **ORDER SETTING FORM
OF PRETRIAL ORDER**
KASRA SADR, AS TRUSTEE FOR THE)
ALTON LARSEN FAMILY INSURANCE)
TRUST, GABRIEL GIORDANO, AND DOES)
1-10,)
Defendants.)

This order replaces the requirements under CivLR 16.1(f)(6)(c). No Memoranda of Law or Contentions of Fact are to be filed except in a bench trial.

The parties shall meet and confer and prepare a proposed pretrial order containing the following:

1. A statement to be read to the jury, not in excess of one page, of the nature of the case and the claims and defenses.

2. A list of the causes of action to be tried, referenced to the Complaint [and Counterclaim if applicable]. For each cause of action, the order shall succinctly list the elements of the claim, damages and any defenses. A cause of action in the Complaint [and/or Counterclaim] which is not listed shall be dismissed with prejudice.

3(a). A list of each witness counsel actually expect to call at trial with a brief statement,

not exceeding four sentences, of the substance of the witnesses' testimony.

3(b). A list of each expert witness counsel actually expect to call at trial with a brief statement, not exceeding four sentences, of the substance of the expert witnesses' testimony.

3(c). A list of additional witnesses, including experts, counsel do not expect to call at this time but reserve the right to call at trial along with a brief statement, not exceeding four sentences, of the substance of the witnesses' testimony.

4(a). A list of all exhibits that counsel actually expect to offer at trial with a one-sentence description of the exhibit.

4(b). A list of all other exhibits that counsel do not expect to offer at this time but reserve the right to offer if necessary at trial with a one-sentence description of the exhibit.

5. A statement of all facts to which the parties stipulate. This statement shall be on a separate page and will be read to and provided to the jury. The parties are directed to meet with the assigned magistrate judge to work out as many stipulations of fact as possible.

6. A list of all deposition transcripts by page and line, or videotape depositions by section, that will be offered at trial.

7. In addition to filing proposed jury instructions in accordance with Fed. R. Civ. P. 51 and CivLR 51.1, the parties shall e-mail the proposed instructions in Word or Wordperfect form to Chambers. If a party disagrees with a particular instruction, the party shall submit an alternate instruction.

The Court encourages the parties to consult with the assigned magistrate judge to work out any problems in preparation of the proposed pretrial order. The court will entertain any questions concerning the conduct of the trial at the pretrial conference.

IT IS SO ORDERED.

DATED: July 1, 2010

Barbara Mayr

BARBARA L. MAJOR
United States Magistrate Judge